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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,275	01/16/2001	Madoka Yamauchi	F-6820	5600

7590  
Jordan and Hamburg  
122 East 42nd Street  
New York, NY 10168

12/29/2003

EXAMINER
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ASHBURN, STEVEN L

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 12/29/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/761,275

Applicant(s)

YAMAUCHI ET AL.

Examiner

Steven Ashburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-11,13-16 and 18-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-11,13-16 and 18-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### ***DETAILED ACTION***

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Oct. 10, 2003 has been entered.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 11, 12, 16, 18, 26 and 27 are rejected under 35 U.S.C. 102(b) as being European Patent Application EP 0830881 by Hideki et al. (Mar. 25, 1998).

Regarding claims 1, 11, 16 and 26: *Hideki* discloses the following features:

a. A degree of difficulty setting unit for setting a degree of difficulty of a technique to be performed by the player character wherein the degree of difficulty setting unit includes a mark changing unit for changing the size of a mark progressively in correspondence with a greater degree of difficulty of the technique. *See fig. 18A, 18B; col. 6:3-14, 20:1-54*. In particular, *Hideki* controls the technique of hitting a golf ball. The degree of difficulty varies in proportion to the spacing of a golfer's feet set by a player. *See id.* The degree of difficulty is indicated (i.e.

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marked) by a power meter. *See id.* The size of the mark is changed progressively corresponding the difficulty of the technique. *See id.*

b. A command guiding unit for guiding a command input for causing the player character to perform a technique corresponding to the set degree of difficulty. *See fig. 9, 15(S507), 19A, 19B; col. 16:55-17:9.*

c. An operation unit for causing the player character to perform the technique according to the set degree of difficulty wherein the operation unit. *See fig. 15(S513); col. 18:51-19:2.*

d. An operable member for inputting a command in accordance with the command input given by the command guiding input. *See 15(S508), 19A, 19B; col. 17:10-36.* In particular, the player presses a button (16e) to cause the power meter to indicate the golfer's swing.

e. An operable member operated by a game player for causing the mark changing unit to set the size of the mark in response to operations of the second operable member performed by the player within a predetermined time period. *See fig. 17A-18B.* In particular, the operable member (16e) is released to set the size of power meter. *See col. 17:10-35.* This operation must be performed within a limited time as defined by the size of the power meter. *See id.* Commanding a game input by detecting the release of an operable member is equivalent to pressing a second operable member.

f. An evaluating unit for evaluating the technique performed in accordance with a command given by the first operable member. *See fig. 16.*

Consequently, the claims are unpatentable because *Hideki* teaches all of the features.

Regarding claims 3, 12, 18 and 27: *Hideki* discloses changing a mark corresponding to the degree of difficulty by operating an operable member in the operation unit. *See fig. 17A-18B; col. 20:1-26.*

***Claim Rejections - 35 USC § 103***

Claims 4-10, 12, 13 and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Hideki* in view of *Nagano Winter Olympics '98*, published by Konami Corp. (Jan. 29, 1998) (hereinafter “*NWO-98*”).

The features of *NWO-98* are described in the following references: *Nagano Winter Olympics '98 Manual*, downloaded from Internet on Oct. 4, 2002 <<http://www.cheatcc.com/psx/-manuals/-nagano.txt>> (hereinafter “*Nagano Manual*”), *Nagano Winter Olympics '98*, downloaded from Internet on Oct. 4, 2002 <<http://www.n64cc.com/-reviews/revnag.htm>> (hereinafter “*Nagano N64*”) and *Nagano Winter Olympics '98*, downloaded from Internet on Oct. 4, 2002 <<http://www.ign64.ign.com/-articles/152/152259pl.html>> (hereinafter “*Nagano IGN*”).

Regarding claims 4, 5, 12, 13, 19 and 20: *Hideki* teaches all the features of the claims except a landing setting unit for causing a character to land. Although *Hideki*'s golf game does not include this feature, as discussed below, the feature would have been obvious to an artisan in an analogous sporting game in which a player controls the landing of an character.

*NWO-98* discloses an analogous video game that simulates techniques in a variety of sporting events. Similar to *Hideki*, the games employ an indicator for guiding a player in the performance of a technique. One event is ski jumping in which players' control the technique of landing a character. See *Nagano Manual*, pp. 9-10; *Nagano N64*, p. 2, ¶ 2- 4; *Nagano IGN* p.1, ¶ 9. It is implicit in the game includes a unit for receiving the command to land, displaying the landing meter and executing instructions to display the game character landing in accordance with player's input. In particular, this landing setting unit displays a meter in a partial area of the game screen image. See *id.* The meter includes a landing success zone wherein a movable mark indicates when to press a button enabling a character to land successfully if the landing mark is within the success zone. See *id.*

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In view of *NWO-98*, it would have been obvious to an artisan at the time of the invention to modify the video game disclosed by *Hideki*, wherein a guide indicates to a player the proper timing of control input to successfully perform a technique, to add the feature of a landing setting unit causing a character to land. As described in *NWO-98*, the modification would enhance *Hideki* by allowing simulation of a ski-jump event wherein a player must control to timing of landing. Furthermore, as suggested by *Hideki* using a timing indicator to control a technique enhances the realism of performing a technique in a sporting game. *See col. 2:5-12.*

Regarding claims 6 and 21: *Hideki* teaches making the size of a success zone narrower as the degree of difficulty is set higher. *See col. 6:3-15.*

Regarding claims 7 and 22 : *Hideki* teaches a command input area is set in a partial area of the game image and the command is displayed in the input area in the form of icons. *See fig. 3.*

Regarding claims 8 and 23: *NWO-98* additionally teaches giving a higher evaluation when a shorter time is required to input a command. *See Nagano Manual, pp. 9-10; Nagano N64, p. 2, ¶ 2-4; Nagano IGN p.1, ¶ 9.* More specifically, the higher difficulty techniques require players to perform longer and/or more complex maneuvers within a limited time to receive a higher evaluation. Hence, an effectively shorter time is given to input commands.

Regarding claims 9 and 24: *NWO-98* teaches, if the input of a command is not completed within a predetermined time, causing the character to perform an action different from the action performed when the command is completed within the predetermined time (e.g. falling instead of landing). *See id.*

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Regarding claims 10 and 25: *NWO-98* teaches causing the character to perform a complicated technique when the set degree of difficulty is high. *See id.*

Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Hideki* in view of *NWO-98*, as applied to claims 4-10 above, in further view of Yamada et al., U.S. Patent 6,149,523 (Nov. 21, 2000).

Regarding claim 28: The video game suggested by *Hideki* in view of *NWO-98* describes a game in which the size of the command-guiding indicator changes in proportion to the difficulty of a technique wherein difficult is proportional to power. However, it does not describe (i) changing the size of the mark in proportion to difficulty wherein difficulty is proportional to the number of operations of the operable member and (ii) displaying on the game screen image a series of command inputs to be sequentially followed by the game player for the character to perform a technique. As discussed below, in view of *Hideki*, it would be obvious to an artisan to modify analogous sporting by changing the size of a command-guiding indicator in proportion to the number of input operations required by a player.

First, regarding the feature of changing the size of the mark, *Hideki* generally describes a video game which simulates a sporting event. To simulate a player's control of a technique, a command-guiding indicator is displayed which represents several components of an actual technique. In particular, *Hideki* simulates the technique of striking a golf ball. As in prior golfing games, *Hideki* provides an indicator for controlling the timing and power of a golf swing. *See fig. 18A, 18B; col. 6:3-14, 20:1-54.* In addition, *Hideki* changes the size of the indicator in proportion to the required player input which is, in turn, proportional to the difficulty of the technique. *See id.* In terms of a golf swing, *Hideki*'s indicator changes in size with the power operation which is, in turn, proportional to the difficulty of the shot. *See id.* *NWO-98* discloses various games in which the difficulty of the technique is promotional to the required player inputs. *See Nagano N64, p. 2, ¶ 3, 4.* To successfully perform a stunt in "Freestyle

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Skiing : Aerials”, players must rapidly tap a button within a given time. *Se id.* More difficult stunts require more button-presses by the player. *See id.* Similarly, “Snowboard: Halfpipe” requires more complex series of cross-key button inputs to succeed at more difficult stunts. Hence it is known in sporting games to increase the difficulty of successfully performing a technique by increasing the amount of operations required by a player. Consequently, it would have been obvious to an artisan at the time of the invention to modify the video game suggested by the combination of *Hideki* in view of *NWO-98*, wherein the size of the command-guiding indicator changes in proportion to the difficulty of a technique, to add the feature of changing the size of the gauge in proportion to difficulty wherein difficulty is proportional to the number of operations of the operable member in order to simulate games such as freestyle skiing and snowboarding. As suggested by *Hideki*, using a timing indicator that changes in size in proportion to difficulty allows more realistic simulation of techniques in a sporting game. *See col. 2:5-12.*

Second, regarding the display of command inputs, *Yamada* teaches displaying on the game screen images of a series of command input to be sequentially followed by the game player for the character to perform a technique in order to reduce the difficulty required in memorizing complicated game operations. *See fig. 1(a-c); col. 1:1-2:24.* In view of *Yamada*, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the video game system described by *Hideki* in view of *NWO-98*, wherein players perform a series of operations to control a game character to perform a technique, to add the feature of displaying on the game screen images of a series of command input to be sequentially followed by the game player for the character to perform a technique to reduce the difficulty required in memorizing complicated game operations and thereby provide a more entertaining game.



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Regarding claims 29 and 30: *NWO-98* describes the degree of difficulty being increased as the number of on/off operations of operable buttons increases with a predetermined amount of time. *See Nagano N64, p. 2, ¶ 3, 4.* In particular, “Freestyle Skiing : Aerials” requires more rapid tapping of a button for more difficult stunts. *See id.* Similarly, “Snowboard: Halfpipe” requires more complex series of cross-key button inputs for more difficult stunts. Consequently, it would have been obvious to an artisan at the time of the invention to modify the video game suggested by *Hideki* in view of *NWO-98* describes a game in which the size of the command-guiding indicator changes in proportion to the difficulty of a technique to add the feature of changing the size of the gauge in proportion to difficulty wherein difficulty is proportional to the number of operations of the operable member in order to simulate games such as freestyle skiing and snowboarding. As suggested by *Hideki*, using a timing indicator that changes in size in proportion to difficulty allows more realistic simulation of techniques in a sporting. *See col. 2:5-12.*

### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new grounds of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Any

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inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1148.

s.a.

A handwritten signature in black ink, appearing to read 'MS', with a long horizontal flourish extending to the right.

MARK SAGER  
PRIMARY EXAMINER